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15 *Attorneys for Defendants Gavin Newsom, in his
16 official capacity as Governor of the State of
17 California, and individually; Gustavo Velasquez, in
18 his official capacity as Director of the State of
19 California Department of Housing and Community
20 Development, and individually; and the California
21 Department of Housing and Community
22 Development*

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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

**CITY OF HUNTINGTON BEACH, a
California Charter City, and
Municipal Corporation, the
HUNTINGTON BEACH CITY
COUNCIL, MAYOR OF
HUNTINGTON BEACH, TONY
STRICKLAND, and MAYOR PRO
TEM OF HUNTINGTON BEACH,
GRACEY VAN DER MARK,**

v.

**GAVIN NEWSOM, in his official
capacity as Governor of the State of
California, and individually;**

8:23-cv-00421-FWS-ADS

**[PROPOSED] ORDER DENYING
PLAINTIFFS' APPLICATION FOR
A TEMPORARY RESTRAINING
ORDER AND/OR ORDER TO
SHOW CAUSE RE
PRELIMINARY INJUNCTION
PURSUANT TO FED. R.CIV. P. 65**

Date:

Time:

Courtroom: 10D

Judge: The Honorable Fred W.
Slaughter

Trial Date: None Set

Action Filed: 3/09/2023

1 **GUSTAVO VELASQUEZ in his**
2 **official capacity as Director of the**
3 **State of California Department of**
4 **Housing and Community**
5 **Development, and individually;**
6 **STATE LEGISLATURE; STATE OF**
7 **CALIFORNIA DEPARTMENT OF**
8 **HOUSING AND COMMUNITY**
9 **DEVELOPMENT; SOUTHERN**
10 **CALIFORNIA ASSOCIATION OF**
11 **GOVERNMENTS; and DOES 1-50,**
12 **inclusive,**

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1 Having considered the application for a temporary restraining order filed by
2 the City of Huntington Beach, et al. (Plaintiffs) and the opposition by Defendants
3 Governor Gavin Newsom, Director Gustavo Velasquez, and the California
4 Department of Housing and Community Development (the State), and for good
5 cause shown, the Court hereby denies Plaintiffs' application for a temporary
6 restraining order.

7 Plaintiffs have not met the test for issuing preliminary injunctive relief. "To
8 warrant injunctive relief, Plaintiffs must establish that they are 'likely to succeed on
9 the merits,' that they are 'likely to suffer irreparable harm in the absence of
10 preliminary relief, that the balance of equities tips in [their] favor, and that an
11 injunction is in the public interest.'" *LA Alliance for Human Rights v. County of Los*
12 *Angeles*, 14 F.4th 947, 956 (9th Cir. 2021) (quoting *Winter v. Nat. Res. Def*
13 *Council*, 555 U.S. 7, 20 (2008)).

14 Here, Plaintiffs cannot establish a likelihood of success on the merits because,
15 as the City of Huntington Beach is a political subdivision of the State of California,
16 they lack standing to assert federal constitutional challenges against the State. *City*
17 *of San Juan Capistrano v. California Pub. Utilities Comm'n*, 937 F.3d 1278, 1280
18 (9th Cir. 2019). As Plaintiffs cannot assert federal claims against the State, the
19 Eleventh Amendment bars this Court from considering their state law claims. *Doe*
20 *v. Regents of the Univ. of California*, 891 F.3d 1147, 1153 (9th Cir. 2018).

21 Even if Plaintiffs could establish a likelihood of success on the merits, the
22 Court nevertheless finds that they have not shown the other factors necessary to
23 warrant preliminary injunctive relief. Plaintiffs have not shown a likelihood of
24 irreparable harm absent preliminary relief, have not demonstrated that the balance
25 of equities tips in their favor, and have not shown that preliminary injunctive relief
26 is in the public interest. *Winter*, 555 U.S. at 20.

27 For these reasons, the Court HEREBY ORDERS that Plaintiffs' application
28 for a temporary restraining order is denied.

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Dated:

Honorable Fred W. Slaughter

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CERTIFICATE OF SERVICE

Case Name: **City of Huntington Beach, et al.** No. **8:23-cv-00421**
v. Gavin Newsom, et al.

I hereby certify that on March 20, 2023, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

[PROPOSED] ORDER DENYING PLAINTIFFS' APPLICATION FOR A TEMPORARY RESTRAINING ORDER AND/OR ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION PURSUANT TO FED. R .CIV. P. 65

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on March 20, 2023, at Sacramento, California.

Leticia Aguirre

Declarant

/s/ Leticia Aguirre

Signature

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